

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

CIVIL ACTION NO.

POLY-MED, INC.,	•	
Plaintiff	•	
v.	•	COMPLAINT (Jury Trial Demanded) REDACTED
NOVUS SCIENTIFIC PTE. LTD.,	•	
NOVUS SCIENTIFIC, INC. and	•	
NOVUS SCIENTIFIC AB,	•	
Defendants	•	
	•	

Plaintiff, Poly-Med, Inc. brings this action against Defendants, Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB, for breach of contract, tortious interference with contract, misappropriation of trade secrets in violation of S.C. Code § 39-8-10, et. seq. and engaging in unfair trade practices in violation of S.C. Code § 39-5-10, et. seq. Some counts of this Complaint are pled in the alternative.

The Parties

1. Poly-Med, Inc. ("POLY-MED") is a South Carolina corporation having a principal place of business at 6309 Highway 187, Anderson, South Carolina, 29625.
2. Upon information and belief, Novus Scientific Pte. Ltd. is a Singapore corporation with a principal place of business at Centennial Tower, Unit 42, Level 34, 3 Temasek Avenue, Singapore, 039190.

3. Upon information and belief, Novus Scientific, Inc. is a Delaware corporation with a principal place of business at 4445 Eastgate Mall, Suite 200, San Diego, CA 92121.
4. Upon information and belief, Novus Scientific AB is a Swedish corporation with a principal place of business at Virdings Alle 2, SE-754 50 Uppsala, Sweden. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB are collectively referred to as the “Novus Entities.”

Jurisdiction and Venue

5. The Court has personal jurisdiction over the Novus Entities because: (a) they all transact business in South Carolina, (b) Novus Scientific Pte. Ltd. or Novus Scientific, Inc. has entered into a contact with POLY-MED to be performed in whole or in part in South Carolina; and, (c) upon information and belief, Novus Scientific, Inc. and Novus Scientific AB are agents, alter egos, instrumentalities and conduits of Novus Scientific Pte. Ltd. with respect to the performance and breach of the contract. Moreover, one or more of the Novus Entities operates a website accessible by South Carolina residents twenty-four hours per day. Novus Scientific, Inc. advertises its products to South Carolina residents through the website and, upon information and belief, in other ways.

REDACTED

All of the Novus Entities are causing tortious injury to POLY-MED in South Carolina through misappropriation of POLY-MED’s trade secrets and/or by tortiously interfering with POLY-MED’s contract with Novus Scientific Pte. Ltd. or Novus Scientific, Inc.

6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between the parties and the value of the rights of the parties in dispute exceeds \$75,000.00 exclusive of interest and costs.
7. Venue is proper pursuant to 28 U.S.C. § 1391(b).

Facts Common to All Counts

8. POLY-MED designs, develops, and manufactures products and materials for use in medical, pharmaceutical and biotechnology applications.
9. POLY-MED's work focuses primarily on bio-absorbable and biodegradable polymers.
10. POLY-MED has numerous trademarks and more than ninety patents and has successfully licensed and manufactured technologies found in many commercially available medical applications.
11. In addition to creating its own products and materials, POLY-MED offers manufacturing services and consulting, analytic and research and development services to a variety of firms in the medical, pharmaceutical and biotechnology industries.
12. Upon information and belief, in 2005, Radi Medical Systems AB ("RADI AB") was a corporation organized and existing under the laws of Sweden with a principal place of business at Palmbladsgatan 10, S-754 50 Uppsala, Sweden.

The Agreement

13. On or about June 8, 2005, POLY-MED entered into a Sale of Materials and License Agreement (the "Agreement") with RADI AB.

14. In or about December 2008, RADI AB assigned the Agreement to Novus Scientific Pte. Ltd. or Novus Scientific, Inc.
15. Upon information and belief, Novus Scientific AB is a wholly owned subsidiary of Novus Scientific Pte. Ltd. and Novus Scientific, Inc. is a wholly owned subsidiary of Novus Scientific AB.
16. Key employees and/or officers of RADI AB became key employees and/or officers of Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB.
17. As a result of the December 2008 assignment, one of the Novus Entities substituted for RADI AB under the Agreement.
18. In the Agreement, **REDACTED**

Agreement, p. 1.

19. Under the terms of the Agreement, **REDACTED**
20. Under the Agreement, **REDACTED**

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Agreement, § 1(f).

21. Under the Agreement, **REDACTED**

Agreement, § 4(a).

22. According to the Agreement, **REDACTED**

Agreement, § 1(b).

23. According to the Agreement, **REDACTED**

Agreement,

§ 1(g).

* Since NOVUS is the operative party under the Agreement, references to RADI AB in the quoted text of the Agreement are substituted with NOVUS for ease of reference. The current party to the Agreement, whether it be Novus Scientific Pte. Ltd. or Novus Scientific, Inc., is hereinafter referred to as "NOVUS" for these purposes. This is in spite of the fact that activities occurring prior to December 2008 were undertaken by RADI AB.

24. Through the Agreement, **REDACTED**

Agreement, § 5.

25. Under the Agreement, **REDACTED**

Agreement, § 1(h).

26. Under the Agreement, **REDACTED**

Agreement, § 6(c).

27. According to the Agreement, **REDACTED**

Agreement, §

6(c).

28. According to the Agreement, **REDACTED**

Agreement, § 7(a).

29. According to the Agreement, **REDACTED**

Agreement, § 7(a).

30. According to the Agreement:

REDACTED

Agreement, § 8.

31. According to the Agreement,

REDACTED

Agreement, § 7(a).

32. According to the Agreement:

REDACTED

Agreement, § 10.

33. Under the Agreement, REDACTED

Agreement, § 1(c).

34. Pursuant to the terms of the Agreement, REDACTED

35. **REDACTED**

36. **REDACTED**

37. At all times relevant to this action, **REDACTED**

38. At all times relevant to this action, **REDACTED**

39. Pursuant to the Agreement, **REDACTED**

40. Pursuant to the Agreement, **REDACTED**

41. REDACTED

The Unauthorized Use, Manufacture, Distribution and Sale of Mesh

42. Sometime after assignment of the Agreement to Novus Scientific Pte. Ltd. or Novus Scientific, Inc., one or all of Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB began REDACTED

43. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB has
REDACTED

44. Upon information and belief, Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB is REDACTED

45. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB have
REDACTED

46. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB has
REDACTED

47. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB have, by itself/themselves and/or through agents, **REDACTED**

48. **REDACTED**

The Patents

49. Between 2006 and December 2008, patent applications subject to the Agreement were filed in the United States Patent and Trademark Office (“USPTO”) and other countries by persons employed by RADI AB (the “2006-2008 Patent Applications”).

50. The 2006-2008 Patents were later assigned to RADI AB.

51. In violation of the Agreement, **REDACTED**

52. In violation of the Agreement, **REDACTED**

53. In violation of the Agreement, **REDACTED**

54. In or about December 2008, the 2006-2008 Patent Applications were assigned to Novus Scientific Pte. Ltd.

55. Patents on some of the 2006-2008 Patent Applications have issued.

56. Between December 2008 and the present, patent applications, continuation applications and continuation-in-part applications subject to the Agreement were filed in the United States and other countries' patent offices by persons employed by Novus Scientific Pte. Ltd. and/or Novus Scientific, Inc. (the "Post-2008 Patent Applications").

57. The Post-2008 Patent Applications were later assigned to Novus Scientific Pte. Ltd.

58. In violation of the Agreement, Neither Novus Scientific Pte. Ltd., nor Novus Scientific, Inc., **REDACTED**

59. In violation of the Agreement, **REDACTED**

60. In violation of the Agreement, **REDACTED**

61. Patents on some of the Post-2008 Patent Applications have issued.

62. In or about August 2013, all of the 2006-2008 Patent Applications and the Post-2008 Patent Applications, and any patents issued as a result, were assigned to Novus Scientific AB.

COUNT I

Breach of Contract – Novus Scientific Pte. Ltd

63. POLY-MED reasserts and realleges the allegations set forth in paragraphs 1 through 62 and incorporates the same by reference as though fully set forth here except to the extent inconsistent herewith.

64. POLY-MED and Novus Scientific Pte. Ltd. are parties to the Agreement.

65. Under the terms of the Agreement, **REDACTED**

66. Novus Scientific Pte. Ltd. has breached the Agreement by **REDACTED**

67. Under the terms of the Agreement, Novus Scientific Pte. Ltd. agreed to: **RED**
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ED

68. Novus Scientific Pte. Ltd. has breached the Agreement by failing to

REDACTED

69. As a proximate result of Novus Scientific Pte. Ltd.'s breach of contract, POLY-MED has been damaged.

COUNT II

Breach of Contract – Novus Scientific, Inc.

70. POLY-MED reasserts and realleges the allegations set forth in paragraphs 1 through 62 and incorporates the same by reference as though fully set forth here except to the extent inconsistent herewith.

71. POLY-MED and Novus Scientific, Inc. are parties to the Agreement.

72. Under the terms of the Agreement, **REDACTED**

73. Novus Scientific, Inc. has breached the Agreement by **REDACTED**

74. Under the terms of the Agreement, Novus Scientific, Inc. agreed to: **REDACTED**

75. Novus Scientific, Inc. has breached the Agreement by failing to **REDACTED**

76. As a proximate result of Novus Scientific, Inc.'s breach of contract, POLY-MED has been damaged.

COUNT III

Breach of Contract – Novus Scientific, Inc. and Novus Scientific AB

77. POLY-MED reasserts and realleges the allegations set forth in paragraphs 1 through 62 and incorporates the same by reference as though fully set forth here except to the extent inconsistent herewith.
78. Upon information and belief, Novus Scientific AB is a wholly owned subsidiary of Novus Scientific Pte. Ltd. and Novus Scientific, Inc. is a wholly owned subsidiary of Novus Scientific AB.
79. Upon information and belief, Novus Scientific AB and Novus Scientific, Inc. are agents of Novus Scientific Pte. Ltd. with respect to the Agreement and **REDA
CTED**
80. Upon information and belief, Novus Scientific Pte. Ltd. exercises such dominion and control over Novus Scientific AB and Novus Scientific, Inc. so as to render Novus Scientific AB and Novus Scientific, Inc. mere conduits or instrumentalities of Novus Scientific Pte. Ltd.
81. Upon information and belief, Novus Scientific AB and Novus Scientific, Inc. are alter egos of Novus Scientific Pte. Ltd.
82. Upon information and belief, Novus Scientific Pte. Ltd. aids, abets and ratifies the acts of Novus Scientific AB and Novus Scientific, Inc.
83. Upon information and belief, POLY-MED and Novus Scientific Pte. Ltd. are parties to the Agreement.

84. Under the terms of the Agreement, **REDACTED**

85. Novus Scientific Pte. Ltd. has, by itself and through the acts of Novus Scientific AB
and Novus Scientific, Inc., breached the Agreement by **REDACTED**

86. Under the terms of the Agreement, Novus Scientific Pte. Ltd. agreed to: **RED**
ACT
ED

87. Novus Scientific Pte. Ltd. has, by itself and through the acts of Novus Scientific AB
and Novus Scientific, Inc., breached the Agreement by failing to **REDACT**
ED

REDACTED

88. As a proximate result of Novus Scientific AB and Novus Scientific, Inc.'s breaches of contract, POLY-MED has been damaged.

COUNT IV

Tortious Interference With Contract – Novus Scientific Pte. Ltd

89. POLY-MED reasserts and realleges the allegations set forth in paragraphs 1 through 62 and incorporates the same by reference as though fully set forth here except to the extent inconsistent herewith.
90. POLY-MED and Novus Scientific, Inc. are parties to the Agreement.
91. Under the terms of the Agreement, **REDACTED**
92. Under the terms of the Agreement, Novus Scientific, Inc. agreed to: **RED**
ACT
ED

REDACTED

93. Novus Scientific Pte. Ltd. has knowledge of the existence of the Agreement.

94. Novus Scientific Pte. Ltd. intentionally procured breaches of the Agreement by

REDACTED

95. Novus Scientific Pte. Ltd. intentionally procured breaches of the Agreement by

failing to **REDACTED**

96. Novus Scientific Pte. Ltd. is without justification for procurement of the breaches of the Agreement.

97. As a proximate result of Novus Scientific Pte. Ltd.'s actions, POLY-MED has been damaged.

COUNT V

Tortious Interference With Contract – Novus Scientific, Inc.

98. POLY-MED reasserts and realleges the allegations set forth in paragraphs 1 through 62 and incorporates the same by reference as though fully set forth here except to the extent inconsistent herewith.
99. POLY-MED and Novus Scientific Pte. Ltd. are parties to the Agreement.
100. Under the terms of the Agreement, **REDACTED**

101. Novus Scientific, Inc. has knowledge of the existence of the Agreement.
102. If Novus Scientific, Inc. is not a party to the Agreement, Novus Scientific, Inc. intentionally procured breaches of the Agreement by **REDACTED**

103. Novus Scientific, Inc. is without justification for procurement of the breaches of the Agreement.
104. As a proximate result of Novus Scientific, Inc.'s actions, POLY-MED has been damaged.

COUNT VI

Tortious Interference With Contract – Novus Scientific AB

105. POLY-MED reasserts and realleges the allegations set forth in paragraphs 1 through 62 and incorporates the same by reference as though fully set forth here except to the extent inconsistent herewith.

106. POLY-MED and Novus Scientific Pte. Ltd. or Novus Scientific, Inc. are parties to the Agreement.

107. Under the terms of the Agreement, **REDACTED**

108. Under the terms of the Agreement, Novus Scientific Pte. Ltd. or Novus Scientific, Inc. agreed to: **REDACTED**

109. Novus Scientific AB has knowledge of the existence of the Agreement.

110. If Novus Scientific AB is not a party to the Agreement, Novus Scientific AB intentionally procured breaches of the Agreement by **REDACTED**

111. If Novus Scientific AB is not a party to the Agreement, Novus Scientific AB
intentionally procured breaches of the Agreement by failing to **REDACT
ED**

112. Novus Scientific AB is without justification for procurement of the breaches of the
Agreement.

113. As a proximate result of Novus Scientific AB's actions, POLY-MED has been
damaged.

COUNT VII

Misappropriation of Trade Secrets – S.C. Code § 39-8-10, et. seq.

Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB

114. POLY-MED reasserts and realleges the allegations set forth in paragraphs 1 through
62 and incorporates the same by reference as though fully set forth here except to the
extent inconsistent herewith.

115. **REDACTED**

116. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB acquired POLY-MED's trade secrets by improper means and/or knew or had reason to know POLY-MED's trade secrets were acquired by improper means.

117. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB used and disclosed POLY-MED's trade secrets **REDACTED**

118. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB disclosed and/or used POLY-MED's trade secrets without POLY-MED's express or implied consent.

119. At the time of disclosure or use of POLY-MED's trade secrets, Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB knew or had reason to know that its/their knowledge of the trade secrets: (a) was derived from or through a person who had utilized improper means to acquire POLY-MED's trade secrets; (b) was acquired under circumstances giving rise to a duty to maintain the secrecy or limit the use of the POLY-MED's trade secrets; and/or, (c) was derived from or through a person who owed a duty to POLY-MED to maintain the secrecy or limit the use of POLY-MED's trade secrets.

120. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB's misappropriation of POLY-MED's trade secrets was willful.

121. As a proximate result of Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB's action, POLY-MED has been damaged.

COUNT VIII

**Unfair or Deceptive Methods, Acts or Practices in the Conduct of Trade or
Commerce – S.C. Code § 39-5-10, et. seq.**

Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB

122. POLY-MED reasserts and realleges the allegations set forth in paragraphs 1 through 62 and incorporates the same by reference as though fully set forth here except to the extent inconsistent herewith.

123. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB are engaged in trade or commerce in South Carolina affecting the people of this state.

124. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB are **R**
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125. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB have misappropriated POLY-MED's trade secrets by **REDACTED**

126. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB have **REDACTED**

127. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB's actions had the capacity, effect or tendency to deceive POLY-MED.

128. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB's methods, acts and practices are unfair and deceptive.

129. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB's unfair and deceptive methods, acts and practices have an impact on the public interest in that **REDACTED**

130. The public interest is also impacted by Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB's actions **REDACTED**

131. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB's unfair and deceptive methods, acts and practices are ongoing and have the potential for repetition and are likely to affect future consumers.

132. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB's use or employment of the unfair or deceptive methods, acts or practices were and are knowing and willful.

133. Novus Scientific Pte. Ltd., Novus Scientific, Inc. and Novus Scientific AB knew or should have known that their conduct was in violation of S.C. Code § 39-5-20.

134. As a proximate result of Novus Scientific Pte. Ltd., Novus Scientific, Inc. and/or Novus Scientific AB's action, POLY-MED has been damaged.

WHEREFORE, POLY-MED respectfully requests that this Court:

1. Determine the amount due POLY-MED pursuant to Count I of its Complaint and enter Judgment for POLY-MED against Novus Scientific Pte. Ltd. for such amount, plus interest and costs;
2. Determine the amount due POLY-MED pursuant to Count II of its Complaint and enter Judgment for POLY-MED against Novus Scientific, Inc. for such amount, plus interest and costs;
3. Determine the amount due POLY-MED pursuant to Count III of its Complaint and enter Judgment for POLY-MED against Novus Scientific, Inc. and Novus Scientific AB for such amount, plus interest and costs;
4. Determine the amount due POLY-MED pursuant to Count IV of its Complaint and enter Judgment for POLY-MED against Novus Scientific Pte. Ltd. for such amount, plus interest and costs;
5. Determine the amount due POLY-MED pursuant to Count V of its Complaint and enter Judgment for POLY-MED against Novus Scientific, Inc. for such amount, plus interest and costs;
6. Determine the amount due POLY-MED pursuant to Count VI of its Complaint and enter Judgment for POLY-MED against Novus Scientific AB for such amount, plus interest and costs;
7. Determine the amount due POLY-MED pursuant to Count VII of its Complaint and enter Judgment for POLY-MED against each of the Novus Entities for such amount, plus interest and costs;
8. Determine the amount due POLY-MED pursuant to Count VIII of its Complaint and enter Judgment for POLY-MED against each of the Novus Entities for such amount, plus interest and costs;
9. Award POLY-MED reasonable attorney's fees pursuant to S.C. Code § 39-8-80;
10. Award POLY-MED reasonable attorney's fees pursuant to S.C. Code § 39-5-140(a);
11. Award POLY-MED three times the actual damages sustained pursuant to S.C. Code § 39-5-140(a);

12. Issue a permanent injunction, in a form to be determined by this Court, restraining each of the Novus Entities, and anyone acting on their behalf, from:

12.1. Using or disclosing any of POLY-MED's trade secrets; or

12.2. **REDACTED**

13. Issue an order declaring that the Agreement is terminated;

14. Issue an order assigning the 2006-2008 Patent Applications and the Post-2008 Patent Applications, and any patents issued as a result, to POLY-MED; and,

15. Grant all such other relief as this Court deems appropriate.

POLY-MED, INC. DEMANDS A TRIAL BY JURY ON ALL COUNTS SO TRIABLE.

Respectfully submitted,

MCNAIR LAW FIRM, P.A.

s/Bernie W. Ellis

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